Supreme Court, U.S.
FILED
06-966 JAN 09 2007
OFFICE OF THE CLERK

No.

IN THE

Supreme Court of the United States

PAUL R. JONES,,

Petitioner,

v.

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, ET AL

Defendants.

ON PETITION FOR CERTIORARI
TO THE UNITED STATES DISTRICT COURT
OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI

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QUESTIONS PRESENTED

I.

1. Are Federally Recognized Indian Tribes, Comprised of A Select Group of Blood Quantum Race Based United States Citizens Since The Indian Citizenship Act of 1924, 'Sovereign Nations Within A Sovereign Nation'?

2. Is Title 25 U.S.C. And Its Progeny-Inclusive of The Howard-Wheeler Act of 1934- A: (A) Blood Quantum Race Based Invidious Racial Classification Discrimination Enactment Enacted by 51%+ Of The United States Senate And House of Representatives And Acquiesced To By The States Of The Union, That Is (B) Disobedient To, Repugnant To And Presumptively Un-Constitutional To The United States Constitution's Article I, Section 8, Clause 3, Commerce Clause; Clause 8-Titles of Nobility (also see Article I, Section 10, Clause 1-Titles of Nobility) and Treaty Clause; Clause 17-Property Clause, Clause 18-Necessary and Proper Clause; Article I, Section 9, Clause 3-No Bill of Attainder; Article IV, Section 4; Article VI, Clause 2-Treaty and Supremacy Clause; Article VI, Clause 3-Oath of Office And The First Amendment (Congress Shall Make No Law Respecting An Establishment Of Religion), *Bolling v. Sharpe, 347 U.S. 497 (1954*) And The Tenth Amendment And Is In Direct Conflict With: (1) Title 50, U.S.C. Appendix-War and National Defense, Defense Production Act of 1950-Exon Florio (2) U.S.A. Patriot Act of 2001, P.L. 107-56, 115 Stat. (3) Intelligence Reform and Terrorist Prevention Act of 2004, P.L. 180-458, 118 Stat. 3638 and (4) Homeland Secu-

rity Act of 2002, P.L. 107-296, 116 Stat. 2135 (2002), Therefore, Requiring Strict Scrutiny?

3. Does The United States Constitution Have Defenses Against Itself? That Is, Can The Speech And Debate Clause/Eleventh Amendment Be A Shield Against Elected Servant(s) Being Held Accountable Under The U.S. Constitution's Article VI, Clause 3-Oath of Office, For Enacting Legislation In Disobedience To Other U.S. Constitution's Articles and Amendments?

4. Does Service Of Complaint By Registered Mail and Service of Summons By Certified Mail To The Defendants In Accordance With *Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313 (1950)* Satisfy U.S. Constitutional Protections?

PARTIES TO THE PROCEEDING

The Petitioner is Paul R. Jones, Pro Se Petitioner. The Respondents are Salt River Pima-Maricopa Indian Community, Eric Vimmerstedt, Sharon Carl, Janet Lacapa, Michael LaLonde and Bryan Meyers

And

The State of Arizona/legislature and Elected Defendants: Janet Napolitano, Governor of the State of Arizona; John McCain, U.S. Senator of the State of Arizona; Jon Kyl, U.S. Senator of the State of Arizona; U.S. House of Representatives for the State of Arizona Congressman Jeff Flake, Ed Pastor, John Shadegg, Trent Franks, Rick Renzi, John Hayworth, Raul M. Grijalva, Jim Kolbe and 51%+ of the unnamed Senators and Congressman in the State of Arizona's

legislature, and 51%+ of the un-named United States Senate and House of Representative elected members of the remaining 49 States, Territories and Protectorates

CORPORATE DISCLOSURE STATEMENT

None

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Section 9, Clause 3-No Bill of Attainder; Article IV, Section 4; Article VI, Clause 2-Treaty and Supremacy Clause; Article VI, Clause 2-Oath of Office; Speech and Debate Clause, and the First, Fifth, Ninth, Tenth, Eleventh and Fourteenth Amendments 3

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STATEMENT OF JURISDICTION

1. The date the judgment or order sought to be reviewed was entered (and, if applicable, a statement that the petition is filed under this Court's Rule 11). District Court Order dated March 28, 2006 and April 5, 2006. Ninth Circuit Court of Appeals Order December 12, 2006

2. The date of any order respecting rehearing, and the date and terms of any order granting an extension of time to file the petition for an extraordinary writ. NONE

3. Express reliance on Rule 12.5.... None

4. The Statutory provision believed to confer on this Court jurisdiction to review on an extraordinary writ the judgment or order in question.

(1) Statement for the jurisdiction of The United States Supreme Court is 28 U.S.C. #1651(a), and Article III, Section 2 and the United States Supreme Court Rule 11, 28 U.S.C. #2101(e) and #1251, #1254(2) and the Fourteenth Amendment to provide a forum to comply with said rules, statute and Amendment to adjudicate said case in accordance with/pursuant to Article III, Section 2, paragraphs 1 and 2 *"...and treaties made,...* and *"In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction"*

OPINIONS BELOW

District Court Order dated March 28, 2006 and April 5, 2006; Ninth Circuit Court Of Appeals Order December 12, 2006

TREATIES

None

STATUTORY PROVISIONS INVOLVED

1. 28 U.S.C. #2101(e) and #1251, #1254(2) and #1651(a);

2. Title 25 U.S.C. inclusive of the Howard-Wheeler Act of 1934, 48 Stat. 984 - 25 U.S.C. § 461 *et seq* (a.k.a. The Indian Reorganization Act of 1934);

3. Title 18 U.S.C. section #241 and section #242 and section #1961 (1) Section #1344, Section #1503, Section #1512 and Section #1513.

4. (1) Title 50, U.S.C. Appendix-War and National Defense, Defense Production Act of 1950-Exon Florio (2) U.S.A. Patriot Act of 2001, P.L. 107-56, 115 Stat. (3) Intelligence Reform and Terrorist Prevention Act of 2004, P.L. 180-458, 118 Stat. 3638 and (4) Homeland Security Act of 2002, P.L. 107-296, 116 Stat. 2135 (2002) as well as Constitutional Articles and Amendments designed to protect itself from armed federally recognized Indian tribal enclave secessionist/insurgents must be reconciled with the Constitutionality of Congressional legislation passed in Title 25 et. al.

U.S. CONSTITUTIONAL PROVISION INVOLVED

Article I, Section 8, Clause 3, Commerce Clause; Clause 8-Titles of Nobility (also see Article I, Section 10, Clause 1-Titles of Nobility) and Treaty Clause; Clause 17-Property Clause, Clause 18-Necessary and Proper Clause; Article I, Section 9, Clause 3-No Bill of Attainder; Article IV, Section 4; Article VI, Clause 2-Treaty and Supremacy Clause; Article VI, Clause 3-Oath of Office; Speech and Debate Clause, and the First, Fifth, Ninth, Tenth, Eleventh and Fourteenth Amendments.

CITATIONS OF THE OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS AND ORDERS ENTERED IN THE CASE.

District Court Order dated March 28, 2006 and April 5, 2006; Ninth Circuit Court of Appeals Order December 12, 2006

STATEMENT OI THE CASE

I. "IF THE LEGISLATURE CLEARLY MISINTERPRETS A CONSTITUTIONAL PROVISION, THE FREQUENT REPETITION OF THE WRONG WILL NOT CREATE A RIGHT." AMOS VS. MOSLEY, 77 SO 619. ALSO SEE KINGSLEY VS. METRIL, 99 NW 1044.

The District Court and Ninth Circuit Court of Appeals clearly misinterpreted the Constitutional provisions Petitioner Jones established in his rebuttals regarding '*...standing...*,' *...suffered an "injury in fact"... traceable to the conduct of the defendants*,' and '*...establish that a favorable federal court decision would be likely to redress the injury*' in *Davis v. Passman, 442 U.S. 228 (1979)* at page 2 para. 2, among other cited cases, regarding 'standing,' 'injury' and 'judicial relief;' and, as a result, the Ninth Circuit's ruling carries no weight and is without merit.

Davis v. Passman, 442 U.S. 228 (1979) and its progeny is a seminal U.S. Supreme Court decision and is controlling in this instant. Petitioner has ably refuted in his rebuttals and appeal both to the Ninth Circuit and Federal District Court any notions asserted and recited by the elected defendants Petitioner Jones '*...lacked standing...*' at page 2, paragraph 2. *Passman, supra,*

> "Held: A cause of action and damages remedy can be implied directly under the Constitution when the

Due Process Clause of the Fifth Amendment is violated. Cf. Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 ; Butz v. Economou, 438 U.S. 478 . Pp. 233-249. (a) The equal protection component of the Fifth Amendment's Due Process Clause confers on petitioner a federal constitutional right to be free from gender discrimination that does not serve important governmental objectives or is not substantially related to the achievement of such objectives. Pp. 234-235. (b) The term "cause of action," ... refers to whether a plaintiff is a member of a class of litigants that may, as a matter of law, appropriately invoke the power of the court. ... petitioner rests ... claim directly on the Due Process Clause of the Fifth Amendment, claiming ... rights under that Amendment have been violated ... has no effective means other than the judiciary to vindicate these rights, ... is an appropriate party to invoke the District Court's general federal-question jurisdiction to seek relief, ... therefore has a cause of action under the Fifth Amendment. ...**since the question of who may enforce a statutory right is fundamentally different from the question of who may enforce a right protected by the Constitution. Pp. 236-244. [442 U.S. 228, 229]** (c) Petitioner should be able to redress ... injury in damages ... able to prevail on the merits. ... **..., if respondent's actions are not shielded by the Speech or Debate Clause, the principle that legislators ought generally to be bound by the law as are ordinary persons ap-**

> **plies. And there is "no explicit congressional declaration that persons" in petitioner's position injured ... "may not recover money damages from" those responsible for the injury.** Ibid.

571 F.2d 793, reversed and remanded."

The enactment-of/acquiesce-to Title 25 U.S.C. et al by the elected defendants injured Petitioner Jones by deprivation of his Article IV, Section 4 Constitutional guarantee to live under a Republican form of government which Salt River Pima-Maricopa Indian Community is not. Such a fundamental U.S. Constitutional injury and deprivation by itself is sufficient to establish (1) injury in fact, (2) unambiguous nexus to persons who enacted or acquiesced-to Title 25 U.S.C. and its progeny that created this injury/deprivation and (3) court vindication of Petitioner Jones' Constitutional Article IV, Section 4 guarantee to live under a Republican form of government compels a reversal of both the District and Ninth Circuit's decisions.

II. ELECTED DEFENDANTS ARE NOT 'FEDERAL' EMPLOYEES

The Ninth Circuit made a fatal Constitutional error in stating the defendants were *'federal defendants'* at page 2-para. 2. None of the defendants is or were federal employees of the United States Government. The named and un-named United States Senators and House of Representatives, Governor of Arizona, Janet Napolitano, and the State of Arizona's legislators do not work for the United States Government.

Each was elected by the Body-politic of their respective States of the Union as delegates to the National or State Government. This error alone is a Constitutional fatal error to the Ninth Circuit's decision as it exceeds any Article III authority to change the status of any defendant that renders them (1) a status they do not possess and (2) abrogates the Constitutional electoral process whereby the Body-politic elects servants to represent their sovereignty at the national or state government.

III. THE NINTH CIRCUIT MOCKS, MARGINALIZES AND IMPUGNS THE INTEGRITY AND CHARACTER OF PRO SE PETITIONER JONES IN HIS EFFORTS TO SECURE FOR HIMSELF HIS CONCEDED U.S. CONSTITUTIONAL PROTECTIONS

The Ninth Circuit's inclusion of the term *'...to the degree they are intelligible...'* at page 2, para. 3 is a straw man argument that mocks, marginalizes and impugns the integrity and character of Pro Se Petitioner Jones. The Ninth Circuit's innuendo Petitioner Jones is 'mentally deficient' and 'lacking intelligence' in preparing his written presentation does not remotely diminish his purpose at hand: securing his conceded Constitutional protections. Petitioner Jones has ably provided in his rebuttals and appeal to the District Court and Ninth Circuit, U.S. Supreme Court decisions that stand in opposition to the state defendant's invoking of the Eleventh Amendment defense against racial discrimination against Petitioner Jones engaged-in within the state defendant's sphere of authority to take corrective action.

IV. THE NINTH CIRCUIT'S DISMISSAL OF THE TRIBAL DEFENDANTS CITING 'DEFECTIVE SERVICE' PER F.R.C.P. 4 OVER-TURNS *MULLANE V. CENTRAL HANOVER BANK & TRUST C., 399 U.S. 306, 313 (1950)*

Both the District Court and the Ninth Circuit erred in ruling that Petitioner Jones'...did not serve those defendants with his complaint and summons in accordance with the procedures mandated by Fed. R. Civ. P. 4) as such a rule over-

turns Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313 (1950). Mullane, supra, is controlling in this case at instant as follows:

> "Held: 3. Such notice by publication is not sufficient under the Fourteenth Amendment as a basis for adjudication depriving of substantial property rights known persons whose whereabouts are also known, since it is not impracticable to make serious efforts to notify them at least by **ordinary mail** .... Pp. 318-320. An elementary and fundamental requirement of due process in any preceding which is to be accorded finality is notice reasonably calculated, under all circumstances, to appraise interested parties of the pendency of the action and **afford them an opportunity to present their objections.**
>
> ...But when notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is in itself reasonably certain to inform those affected, compare Hess v. Pawloski, 274 U.S. 352 , with Wuchter v. Pizzutti, 276 U.S. 13 , or, where conditions do not reasonably permit such notice, that the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes. ... Against this interest of the State we

> must balance the individual interest sought to be protected by the Fourteenth Amendment. This is defined by our holding that "The fundamental requisite of due process of law is the opportunity to be heard." Grannis v. Ordean, 234 U.S. 385, 394 . **This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest.** " (Emphasis by Petitioner Jones)

Federal Rules of Civil Procedure cannot overturn black letter law. Secondly, both the Ninth Circuit and District Court usurped the privilege secured to the tribal defendants by the U.S. Constitution to remain silent. It is unquestionable and undeniable the tribal defendants were notified by Petitioner Jones of the 20-count complaint by registered mail and their summons was by certified mail at their last known address. The tribal defendants have an absolute Constitutional protection to remain silent and did so by not contesting the means of service, complaint or summons or raise any challenges about incomplete documentation of the Pro Se Petitioner's complaint and or summons in any way, shape or form. If the tribal defendants did not like the presentation of Pro Se Petitioner's summons i.e. lacks clerk signature, etc, they have the Constitutional rights to protect their interests, to object or contest or be heard. The tribal defendants availed themselves of the Constitutional protection of remaining silent consistent with *Mullane, supra,* "...can choose for himself whether to **appear or default, acquiesce or contest**." The tribal defendants clearly chose to 'default, acquiesce' through their knowing decision to remain silent

by not appearing in Court notwithstanding any "short-comings-actual or not," to Pro Se Petitioner's presentation of the complaint, summons or means of service. Whatever 'alleged irregularities' asserted by the District and Ninth Courts may have existed in Pro Se Petitioner's service of complaint and summons, the tribal defendant's exercised their Constitutional rights to do what they believed to be in their best interest and that was to **not appear in Court but remain silent.** Both the District Court and Ninth Circuit Court lack Article III authority to over-reach and or reject the Constitutionally guaranteed unambiguous and un-mistakable explicit decision of the tribal defendants-who are fully capable of defending themselves if they chose to do so-to remain silent by both Court's directly displacing the tribal defendant's U.S. Constitutionally guaranteed decision to remain silent by inserting and substituting themselves in to becoming the advocate for the tribal defendants, fashion and present an argument on the tribal defendant's behalf re. F.R.C.P paragraphs 4, Sections #1 & #2, and then favorably rules on the very same argument all to the detriment of Petitioner Jones. Even great jurist from history like Justices Harlan, White, Douglas, Frankfurter, and Thurgood Marshal would find it fundamentally impossible to over-come arguments substituted by the supposed neutral hearing Court's on behalf of the tribal defendants-who elected to remain silent-who then rule favorably on their own arguments. Third, Pro Se Petitioner Jones submitted proof to the District Court of delivery of complaint by registered mail and delivery of his prepared summons by certified mail to the tribal defendants-twice. According to the District Court's docket record beginning at #10, *"summons not issued by court"* is noted.

Why didn't the District Court issue the signed, date, time and place summons? Why was Petitioner Jones not notified? It is not the Petitioner's job to badger the Court clerk to comply with duties of the clerk's job. Pro Se Petitioner Jones argues the District Court 'sandbagged' him by ordering Petitioner to provide to the Court notice of service of complaint and summons to the tribal defendants six month after Petitioner Moved for Summary Judgment, knowing (or should have known) full-well the clerk of the Court had not provided Petitioner with the signed, date, place and time of summons thus shifting the burden of proof to the Petitioner exonerating, nullifying, dodging or excusing the clerk's error in the first place through deception. F.R.C.P. #4 paragraphs 1 and 2 state what the Court clerk is to provide in the summons process. The duties of the Court clerk are not dependant upon the statues of whether the petitioner is an attorney with procedural knowledge or Pro Se lay-person with none. The clerk of the Court failed to inform this Pro Se Petitioner at the time he provided copies of his prepared summons that the clerk could not sign or provide date, time and place while he waited or Petitioner Jones would be notified either by mail or telephone when the clerk had carried out F.R.C.P. #4 para. #1 & #2 so Pro Se Petitioner could complete service of summons. None of this was done by the clerk of the Court to the detriment of Pro Se Petitioner Jones. In short, the clerk of the District Court withheld from Pro Se Petitioner Jones knowledge of the Court's responsibilities to carry out prescribed actions regarding the timely application of the clerk's signature, date, time and place determinations in accordance with summons prep per F.R.C.P. 4 paragraphs #1 & #2, return these properly clerk completed summons to the

Pro Se Petitioner so he could duly serve the defendants. Pro Se Petitioner argues this error by the clerk of the District Court was not of his own doing, denied him the opportunity to cure any administrative errors and was fatally detrimental to this Pro Se Petitioner's efforts to follow rules in seeking to secure for himself his Constitutional rights. (See: "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona, 384 U.S. 436, 491. (1966).")*

"The real practical blessing of our Bill of Rights is in its provision for fixed procedure securing a fair hearing by independent courts to each individual...But if the individual in seeking to protect himself is without money to avail himself of such procedure, the Constitution and the procedure made inviolable by it do not practically work for the equal benefit of all. Something must be devised by which everyone, however lowly and however poor, however unable by his means to employ a lawyer and pay court costs, shall be furnished the opportunity to set fixed machinery of justice going." - William Howard Taft Chief Justice, U.S. Supreme Court, Preface to Smith and Bradway, LEGAL AID WORK IN THE UNITED STATES (1926)" (Emphasis by Petitioner). Pro Se Petitioner Jones argues the failure of the District Court clerk to notify Jones of any 'irregularities' in his presentation of his prepared summons that was curable had he been appraised of any 'irregularities' by the District Court clerk, denied Petitioner Jones "...the opportunity to set fixed machinery of justice going." Even conceding the initial summons sent by Petitioner Jones lacked the clerks signature, etc., the tribal defendants clearly exercised their U.S. Constitutional protections and deemed it not in their interest

(they didn't care) to properly raise this error to the Court in an objection; and therefore, the District and Ninth Circuits direct displacement of the tribal defendants decision by the Court's intervention, intrusion, and substitution of their arguments on behalf of the tribal defendants as an advocate exceeded their Article III authority to be both a supposedly neutral arbiter and advocate of the U.S. Constitution and concurrently an advocate for the tribal defendants thus committing a reversible error.

V. PETITIONER JONES HAS BEEN DENIED HIS DAY IN COURT TO PRESENT EVIDENCE AND TESTIMONY TO PREVAIL ON MERITS ALL OF HIS ORIGINAL COMPLAINTS

The District Court erred in denying Petitioner's Motion for the Court to submit a Certified Question to the U.S. Supreme Court, and for the assignment of a Master as well as denying Petitioner's initial 362+ page in-depth well reasoned, documented and argued rebuttal to the State of Arizona/Governor's reply even after Petitioner sought a waiver of page length submission citing Constitutional complex issues essential to securing Petitioner's Constitutional position; the Ninth Circuit erred in denying Pro Se Petitioner his Motion for Oral Arguments to present the merits of his complaint. The Ninth Circuit's refusal to hear any oral arguments from Petitioner Jones denied him due process and equal protection. This denial prohibited Petitioner from providing proof the elected defendant's conduct in enacting or acquiescing-to the enactment of Title 25 U.S.C. and its progeny was and is in disobedience to Article I, Section 8, Clause 3, Commerce Clause; Clause 8-Titles of Nobility (also see

Article I, Section 10, Clause 1-Titles of Nobility) and Treaty Clause; Clause 17-Property Clause, Clause 18-Necessary and Proper Clause; Article I, Section 9, Clause 3-No Bill of Attainder; Article IV, Section 4; Article VI, Clause 2-Treaty and Supremacy Clause; Article VI, Clause 3-Oath of Office And The First Amendment-Congress Shall Make No Law Respecting An Establishment Of Religion, *Bolling v. Sharpe, 347 U.S. 497 (1954*) And The Tenth Amendment And In Conflict With (1) Title 50, U.S.C. Appendix-War and National Defense, Defense Production Act of 1950-Exon Florio (2) U.S.A. Patriot Act of 2001, P.L. 107-56, 115 Stat. (3) Intelligence Reform and Terrorist Prevention Act of 2004, P.L. 180-458, 118 Stat. 3638 and (4) Homeland Security Act of 2002, P.L. 107-296, 116 Stat. 2135 (2002). Petitioner Jones cannot locate anywhere in the U.S. Constitution where conduct by elected servants that is in disobedience to the U.S. Constitution as individuals or in concert with others cannot be called into account by a person or persons 'injured in fact' by such disobedient conduct only to be told (to the injured Petitioner Jones) by the Federal District Court that such a call to accountability 'works against the United States government.' Such a doctrinal position taken by the District Court that 'injury in fact' to Petitioner Jones and his ability to vindicate his rights and call into account in suit all elected servants whose disabling legislation precipitated, abetted, and prospered the 'injury in fact' to Petitioner Jones by the tribal defendants is denied by the District Court because such a suit 'works against the United States' works Constitutional mischief on a grand scale. The Bill of Rights was crafted for the sole purpose of 'working against elected servant conduct disobedient to the Constitution.' In short, both the Federal

District Court and the Ninth Circuit denied Petitioner Jones a trial of facts in a venue and forum established by Article III to afford the means to prevail on merits by totally dismissing any opportunity for Petitioner Jones to secure and present evidence and testimony affirming the tribal defendants trespassed against Petitioner Jones' conceded Constitutional protections and his Article IV, 4, guarantee that **precipitated** this suit all the while the tribal defendants were acting under the elected servant's enacted "protective umbrella" of Title 25 et al; and, the elected defendants trespassed against his rights by enacting, acquiescing-to and perpetuating Title 25 U.S.C. and its progeny creating at a minimum a Bill of Attainder against Petitioner Jones' rights; and, is a presumptively un-constitutional blood quantum race based enactment, under which the tribal defendants trespassed against Petitioner's rights by claiming, among other claims, that Salt River Pima-Maricopa Indian Community (SRPMIC) and its agents are a 'sovereign nation possessing sovereign immunity,' are not subject to the Bill of Rights and cannot be sued for Constitutional violations of Petitioners rights.

VI. EX PARTE YOUNG 209 U.S. 123 (1908) AND ITS PROGENY AND 14TH AMENDMENT'S PARAGRAPH 5 CARVE OUT AN EXCEPTION TO THE ELEVENTH AMENDMENT DEFENSE

Petition Jones has already ably refuted the State of Arizona and Governor Napolitano's assertion of the Eleventh Amendment as a defense as noted in his 362+ page and shorter rebuttals and appeal.

"(See Ex Parte Young, 209 U.S. 123 (1908) Also see: Puerto Rico Aqueduct & Sewer Auth vs. Methcalf & Eddy, 506 U.S. 139 (1993)-The doctrine of Ex parte Young, which ensures that state officials do not employ the Eleventh Amendment as a means of avoiding compliance with federal law, is regarded as carving out a necessary exception to Eleventh Amendment immunity. See, e.g., Green v. Mansour, 474 U.S. 64, 68 474 (1985); New York vs. United States, 505 U.S. 144 (1992)-Additional cases cited by the United States discuss the power of federal courts to order state officials to comply with federal law. See Puerto Rico v. Branstad, 483 U.S. 219, 228 483 (1987); Washington v. Washington State Commercial Passenger Fishing Vessel Assn.,443 U.S. 658, 695 (1979); Illinois v. City of Milwaukee, 406 U.S. 91, 106 -108 (1972); see also Cooper v. Aaron, 358 U.S. 1, 18 -19 (1958); Brown v. Board of Education, 349 U.S. 294, 300 (1955); Hafer v. Melo, 502 U.S. 21 (1991)-"it has been settled that the Eleventh Amendment provides no shield for a state official confronted by a claim that he had deprived another of a federal right under the color of state law.")" (Emphasis by Petitioner)

Also See 14th Amendment's 5th paragraph previously argued in Pro Se Petitioner Jones' rebuttals and appeal.

REASONS FOR GRANTING THE PETITION FOR CERTIORARI

I. SUMMARY OF THE ARGUMENT

This Petition should be granted to address a monumental Constitutional crisis of whether:

> 1. Federally Recognized Indian tribes are 'sovereign nations within a sovereign nation' creating a bona fide dispute going to the very heart of the continued preservation of the internal integrity and national security of the United States Constitution, The United States, States of the Union and individual Body-politic sovereigns to be secure from aggressive internal secessionist and insurgent Indian tribalism ideology that seeks to undermine, dismantle and destabilize the United States Constitution, sometimes by armed aggression, by establishing 'sovereign Indian nations within a sovereign nation totally autonomous to the United States Constitution' in contravention to U.S. Constitution itself and internal integrity and national security enactments identified in (1) Title 50, U.S.C. Appendix-War and National Defense, Defense Production Act of 1950-Exon Florio (2) U.S.A. Patriot Act of 2001, P.L. 107-56, 115 Stat. (3) Intelligence Reform and Terrorist Prevention Act of 2004, P.L. 180-458, 118 Stat. 3638 and (4) Homeland Security Act of 2002, P.L. 107-296, 116 Stat. 2135 (2002) and various Articles and Amendments of the United States Constitution

2. Whether Title 25 et al is a blood quantum race based invidious racial classification discrimination enacted or acquiesced-to by elected servants that is (A) presumptively un-Constitutional necessitating a strict scrutiny analyses and (B) subordinates Constitutional Articles, Amendments and *Bolling, supra.* to a federally recognized Indian enclave resulting in trespasses against, abrogation of, Petitioner Jones' rights in their entirety by both the elected and tribal defendants.

3. Whether the United States Constitution has defenses against itself

4. Whether Federal Rules of Civil Procedure overturned *Mullane, supra.* And whether the clerk of the District Court committed a reversible error deceptively hidden from Pro Se Petitioner's view by the District and Ninth Court's

CONCLUSION

For the foregoing reasons, this Petition for Certiorari is to secure for Petitioner Jones his (1) conceded Constitutional protections and (2) protect the internal integrity and national security of the U.S. Constitution, the United States, States of the Union and Body-politic from internal sedition, insurgency and secessionist ideology cabal by Federally recognized Indian tribes should be granted least the U.S. Constitution and the republican form of government it established fall victim to the ills and evils of Indian tribalism ideology's **insurrection and domestic faction** ably recounted in the Federalist Papers #6 and #9. The United States Constitution was written to secure the rights of the individual citizen's sovereignty and not that of groups. (Emphasis by Petitioner)

Respectfully Submitted,

Paul R. Jones
Plaintiff, Pro Se

Copies to Defendants:
Salt River Pima-Maricopa Indian Community; Michael LaLonde; Bryan Meyers; Eric Vimmerstedt; Janet Lacapa; Sharon Carl, et al,
10005 East Osborn Road
Scottsdale, AZ 85257
Defendants
And
Carrie J. Brennan-Counsel of Record
For the State of Arizona and Honorable
Janet Napolitano, Governor of Arizona
Assistant Attorney General
1275 West Washington Street
Phoenix, AZ. 85007-2997
Defendants
And
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Counsel of record for: Jeff Flake,
Trent Franks, Raul Grijalva, John
Hayworth, Ed Pastor, Rick Renzi,
John Shadegg and Robert Stump
And 51% of un-named
Defendant Representatives

Counsel of Record for Defendants
And
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Attorneys of record for United States Senator Defendants
And 51% of the un-named Senate Defendants
And Advisory to:
John D. Negroponte,
Director
National Intelligence Agency
Washington, D.C. 20511
And
Ninth Circuit Court of Appeals
Office of the Clerk
95 Seventh Street
PO Box 193939
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And
Paul D. Clement,
United States Solicitor General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

APPENDIX A – MEMORANDUM, FILED DECEMBER 12, 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PAUL R. JONES,
Plaintiff-Appellant,
v.
SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY; et al.,
Defendants-Appellees.

No. 06-15736
D.C. No. CV-05-01944-PHX-SRB
MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted December 4, 2006**

Before: GOODWIN, LEAVY, and FISHER, Circuit Judges.

Paul R. Jones appeals pro se from the district court's judgment dismissing his action alleging that the State of Arizona and its Governor, various United States Senators and Representatives, and his former tribal employer violated his

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. We therefore deny Jones' request for oral argument. *See* Fed.R.A.pp. 34 (a)(2).

constitutional rights. We have jurisdiction pursuant to 28 U.S.C. §1291. After de novo review, *Sahni v. Am. Diversified Partners*, 83 F.3d 1054, 1057 (9th Cir. 1996), we affirm.

The district court properly concluded that Jones lacked standing to bring his claims against the various federal defendants. *See Bennett v. Spear*, 520 U.S. 154, 167 (1997) (plaintiff must have suffered an "injury in fact," the injury must be fairly traceable to the conduct of the defendant, and the plaintiff must establish that a favorable federal court decision would be likely to redress the injury).

The district court also properly concluded that Jones' claims against the state defendants, to the degree they are intelligible, are barred by the Eleventh Amendment. *See Franceshci v. Schwartz*, 57 F.3d 828, 831 (9th Cir. 1995) (per curiam) ("The Eleventh Amendment bars suits which seek either damages or injunctive relief against a state, an 'arm of the state,' its instrumentalities, or its agencies.").

Finally, the district court properly dismissed the claims against the tribal defendants because Jones did not serve those defendants with his complaint and summons in accordance with the procedures mandated by Fed.R.Civ.P.4. *See Jackson v. Hayakawa*, 682 F.2d 1344, 1347 (9th Cir. 1982) (unless there is "substantial compliance" with Rule 4, even actual notice will not provide personal jurisdiction).

Jones' remaining contentions also lack merit.

We deny all pending motions as moot

AFFIRMED.

APPENDIX B – U.S. DISTRICT COURT ORDER, DATED APRIL 5, 2006

IN THE UNITED STATES D ISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Paul R. Jones)
Plaintiff(s),)
v.) CIV-05-1944-PHX-SRB
Salt River Pima-)
Maricopa Indian) **JUDGMENT**
Community, et al.)
Defendant (s))
_____)

_____ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

_____ **Decision by Court.** This action came for consideration before the court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that this Court having dismissed remaining Defendants without prejudice, Plaintiff take nothing. This Complaint and action are hereby dismissed.

DATED at Phoenix, Arizona, the 5th day of April, 2005.

RICHARD H. WEARE
DCE/Clerk of Court

By: s/ M. Pruneau
Deputy Clerk

CIV-21 (7/94)

APPENDIX C- U.S. DISTRICT COURT ORDER, DATED MARCH 28, 2006

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Paul R. Jones, Plaintiff, vs. Salt River Pima-Maricopa Indian Community, et al. Defendant.	No. CV-05-1944-PHX-SRB **ORDER**

At issue are four motions: a Motion to Dismiss filed by the State of Arizona and Arizona Governor Janet Napolitano ("Arizona Defendants")(Doc.5); a Motion to Dismiss filed by Defendants Jeff Flake, Trent Franks, Raul Grijalva, John Hayworth, Ed Pastor, Rich Renzi, John Shadegg and Robert Stump ("House Defendants"[1]) (Doc. 36); a Motion to Dis-

[1] These Defendants are currently United States Representatives, with the exception of Robert Stump, who is a former U.S Representative. The Complaint also lists "51% of the un-named United States House of Representatives." Those Defendants will be included in the label "House Defendants."

miss filed by John McCain and Jon Kyl ("Senate Defendants"[2])(Doc.36); a Motion for Summary Judgment filed by Plaintiff Paul R. Jones (Doc.45); and a Motion to Strike filed by the Arizona Defendants (Doc.42).

I. LEGAL STANDARDS AND ANALYSIS

A. Motions to Dismiss filed by House and Senate Defendants

In a nutshell, Plaintiff appears to be suing members of the United States House of Representatives and United States Senate because of their enactment of federal laws that allegedly injured Plaintiff by violating his constitutional rights in a manner not ascertainable from the Complaint. More specifically, the laws Plaintiff finds to be objectionable appear to be all laws codified in Title 25, which, according to the Complaint, include the Indian Citizenship Act of 1924, 8 U.S.C. § 1401, and the Indian Re-Organization Act, 25 U.S.C. § 461 *et seq.* It is not apparent from the Complaint how those laws impacted Plaintiff, though there is some discussion of the fact that Plaintiff lost his job with the Salt River Pima-Maricopa Indian Community. However, the nexus between Plaintiff's lost job and the laws codified in Title 25 is lost on the Court.

The motions are granted for three reasons: Plaintiff lacks Article III standing; the Speech or Debate Clause, U.S.

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[2] These Defendants are currently United States Senators. The Complaint also lists "51% of the un-named United States Senate." Those Defendants will be included in the label "Senate Defendants."

Const. art. I, § 6, cl. 1[3] confers absolute immunity on these Defendants;[4] and the doctrine of sovereign immunity precludes this action.

As for standing, Plaintiff has failed to meet every element of the required three part test: "that he has suffered 'injury in fact,' that the injury is 'fairly traceable' to the actions of the defendant, and that the injury will likely be redressed by a favorable decision." *Bennett v. Spear*, 520 U.S. 154, 162, 117 S.Ct. 1154, 1161 (1997) (citation omitted). *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 112 S. Ct. 2130, 2135 (1992) (required that a plaintiff show "invasion of a legally protected interest"); *Minnesota Bd. for Cmty. Colleges v. Knight*, 465 U.S. 271, 285, 104 S.Ct. 1058, 1067 (1984) (noting that "[n]othing in the First Amended or in the Court's case law interpreting it suggests that the rights to speak, associate and petition require government policymakers to listen or respond to individuals' communications on public issues"); *Keener v. Congress of the United States* ,467 F.2d 952 (5th Cir. 1972) (affirming dismissal for lack of standing of the plaintiff's action to compel Congress to take legislative action).

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[3] That clause states, in relevant part, that "Senators and Representatives . . .shall not be questioned in any other Place" for "any Speech or Debate in either House."

[4] The House and Senate Defendants also argue that the claims against them should be dismissed because the Complaint fails to state a claim against them and because they are entitled to qualified immunity. The Court will not address these arguments in light of its conclusion that it lacks subject matter jurisdiction over all claims against the House and Senate Defendants.

The Speech or Debate Clause of the Constitution confers absolute immunity on Members of Congress for all conduct falling within "the sphere of legitimate legislative activity." *Eastland v. U.S. Servicemen's Fund,* 421 U.S. 491, 501, 95 S. Ct. 1813, 1820 (1975) (citations omitted) (holding that the Speech or Debate clause should be read "broadly to effectuate its purposes," which are "to insure that the legislative function the Constitution allocates to Congress may be performed independently"; the Court also noted that this immunity attaches even where "it is alleged that First Amendment rights may be infringed by congressional action."). *See Bogan v. Scott-Harris,* 523 U.S. 44, 54-55, 118 S.Ct. 966, 973 (1998) (holding that legislator is absolutely immune under the Speech or Debate Clause for voting for ordinance that violated the plaintiff's First Amendment rights); *Newdow v. U.S. Congress,* 328 F.3d 466, 484 (9th Cir. 2003), *rev'd on other grounds,* 124 S. Ct. 2301 (2004). Here, Plaintiff is suing these Defendants because of the alleged effect of a law or series of laws that they allegedly passed. As the Senate Defendants' brief states, "That is precisely the type of lawsuit that is barred by the Speech or Debate Clause, as the passage of legislation is quintessential legislative activity." (Senate Defendants' Brief at 7.) *See Gravel v. United States,* 408 U.S. 606, 624, 92 S. Ct. 2614, 2627 (Speech or Debate Clause applies to "act of voting")(citation omitted); *Newdow,* 328 F.3d at 484; *Quillin v. United States,* 589 F. Supp. 830, 831 (N.D. Iowa 1984).

These Defendants are also protected under the doctrine of sovereign immunity because Plaintiff is suing them in their official capacities, the relief that Plaintiff seeks would operate against the United States, and the Unites States has not

waived its immunity. *See Hawaii v. Gordon,* 373 U.S. 57, 58 (1963) (stating that "[t]he general rule is that the relief sought nominally against an officer is in fact against the sovereign if the decree would operate against the latter"). *See generally Keener,* 467 F.2d at 953.

Because Plaintiff lacks standing and because these Defendants are entitled to absolute and sovereign immunity, all claims against them are dismissed.

B. Motion to Dismiss filed by Arizona Defendants

The motion to dismiss is granted. First, all of Plaintiff's claims against the State of Arizona and Governor Napolitano in her official capacity are precluded by the Eleventh Amendment. *Edelman v. Jordan,* 415 U.S. 651, 662-63 (1974) ("[T]his Court has consistently held that an unconsenting State is immune from suits brought in federal courts by her own citizens. . .") (citations omitted); *Will v. Mich. Dep't of State Police,* 491 U.S. 58, 71, 109 S.Ct. 2304, 2312 (1989) ("[A] suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official's office. As such, it is no different from a suit against the State itself.") (citations omitted); *Alabama v. Pugh,* 438 U.S. 782, 98 S. Ct. 3057 (1978); *Franceshi v. Schwartz,* 57 F.3d 828, 831 (9th Cir. 1994) ("The Eleventh Amendment bars suits which seek either damages or injunctive relief against a state, an 'arm of the state,' its instrumentalities, or its agencies.") (quotations omitted).

Second, to the extent that Plaintiff is suing Governor Napolitano in her individual capacity, he fails to state a claim within the meaning of Federal Rule of Civil Procedure

12(b)(6). The sole mention of the governor in the Complaint is: "Plaintiff argues...the Governor...can[not] roam about the countryside and operate free from the constraints of the Constitution..." (Compl. At 11.) This statement runs afoul of the rule that, "[a] plaintiff must allege facts, not simply conclusions, that show that an individual was personally involved in the deprivation of his civil rights." *Barren v. Harrington,* 152 F.3d 1193, 1194 (9th Cir. 1998).

As the Court lacks subject matter jurisdiction over all claims against the Arizona Defendants, all claims against them are dismissed.

C. Plaintiff's Motion for Summary Judgment

Plaintiff's seeks summary judgment on all claims against the following Defendants: Salt River Pima-Maricopa Indian Community, Eric Vimmerstedt, Sharon Carl, Janet Lacapa, Michael LaLonde, Bryan Meyers (together, "Tribal Defendants"). The basis of the motion is the failure of any of the Tribal Defendants to respond to the Complaint within sixty days after receiving notice of the suit. None of the Tribal Defendants have responded to the motion.

The motion for summary judgment is denied because none of the Tribal Defendants were properly served with the Complaint within the meaning of Federal Rule of Civil Procedure 4. Plaintiff mailed each of the Tribal Defendants a copy of the Complaint by registered mail without obtaining a waiver of service.

D. Motion to Strike filed by Arizona Defendants

Plaintiff filed a rebuttal to the Arizona Defendants' Reply in Support of its Motion to Dismiss. Such a document is not permitted under local rules. The motion to strike is granted.

IT IS ORDERED granting the Motion to Dismiss filed by the State of Arizona and Arizona Governor Janet Napolitano (Doc. 5).

IT IS FURTHER ORDERED granting the Motion to Dismiss filed by Defendants Jeff Flake, Trent Franks, Raul Grijalva, John Hayworth, Ed Pastor, Rick Renzi, John Shadegg, Robert Stump and Unnamed United States Representatives (Doc.36).

IT IS FURTHER ORDERED granting the Motion to Dismiss filed by John McCain, Jon Kyl and Unnamed United States Senators (Doc. 39).

IT IS FURTHER ORDERED denying the Motion for Summary Judgment filed by Plaintiff (Doc. 45).

IT IS FURTHER ORDERED granting the Motion to Strike filed by the State of Arizona and Arizona Governor Janet Napolitano (Doc. 42).

DATE this 28th day of March, 2006.

Susan R. Bolton
United States District Judge